

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELLIS BROWN,

No. C 11-03883 WHA

Plaintiff,

v.

**ORDER DISMISSING ACTION
FOR FAILURE TO PROSECUTE**

WELLS FARGO BANK. N.A.,

Defendant.

Pro se plaintiff Ellis Brown initiated this foreclosure action on July 18, 2011, in the Superior Court of California, Alameda County. The form complaint alleges claims for fraud, breach of contract, bad faith, negligence, and unfair business practices. Defendant Wells Fargo Bank, N.A., removed the action to federal court based on diversity jurisdiction. Defendant filed a motion to dismiss. On September 2, 2011, the action was reassigned to the undersigned judge. Defendant renoticed its motion to dismiss on October 27, 2011.

Plaintiff failed to timely oppose or submit a statement of non-opposition to the motion. An order to show cause issued and the hearing was vacated. A case management conference was held on November 17. Plaintiff did not appear and did not respond to the order to show cause. A second order to show cause issued on November 18, ordering plaintiff to show cause why the case should not be dismissed for lack of prosecution. The case management conference was rescheduled. Plaintiff failed to respond to the second order to show cause and failed to appear at the rescheduled case management conference. Plaintiff's sister, not a party to the action, did appear at the case management conference and indicated that plaintiff was at a deposition. A

1 third order to show cause issued on December 9. Plaintiff responded with a "Motion to Show
2 Cause." Good cause was found and a briefing and hearing schedule was set for the motion to
3 dismiss. Plaintiff was ordered to file his opposition to the motion to dismiss by January 9, 2012.
4 Plaintiff has failed to respond, yet again.

5 Plaintiff was afforded numerous opportunities to prosecute this action. Plaintiff
6 consistently failed to do so. Plaintiff never submitted an opposition to the motion to dismiss,
7 which was renoticed in October 2011. The action is **DISMISSED** for failure to prosecute. *See*
8 FRCP 41(b). The Clerk shall **CLOSE** the case file.

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10 **IT IS SO ORDERED.**

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12 Dated: January 17, 2012.



13 WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE
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